

REMARKS

The Pending Claims

Currently pending are independent claims 6 and 11 as well as dependent claims 9, 12, 13 and 15. Reconsideration of the pending claims is respectfully requested.

Summary of the Office Action

The Office Action objects to claims 6 and 11 due to the informality of containing material in parenthesis that does not refer to elements in a figure. Claim 6 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of US Patent 6,454,876 (Ochomogo) in view of US Patent 5,359,961 (Goss). Claims 6, 9, and 11-15 are rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 5,183,655 (Stanislowski).

Summary of the Amendments

The above-mentioned informality contained in claims 6 and 11 has been corrected. In addition, pending independent claims 6 and 11 have been amended to point out more clearly and claim more distinctly the subject matter of the Applicants' invention. Specifically, Applicants have added the limitation that the composition contain 0.1-3% of a water dispersible acrylic emulsion polymer having an acid number from about 75-500 and an average molecular weight of about 500-20,000. Support for this amendment can be found in Applicants' specification on page 7, lines 2-3 and 14-16. Additionally, Applicants have cancelled without prejudice claim 14.

Discussion of the Prior Art Rejections

Applicants respectfully submit that since US Patent 6,454,876 to Ochomogo et al. was filed on the same date, 12/22/99, as the instant application, it is not a proper prior art reference. Thus, it is respectfully requested that the double-patenting rejection be withdrawn.

To support the rejection of a claim as obvious, the prior reference or references as combined must teach or suggest every element of the rejected claim. See, e.g., M.P.E.P § 2143. Applicants submit that because the relied-upon prior art reference of Stanislowski fails to teach every element of pending claims 6 and 11 as amended, the rejection should be withdrawn. The Examiner states of page 9 of the July 5, 2005 Office Action that Stanislowski discloses a composition comprising borax, water, dispersible polymers, volatile solvents, surfactants and pine-oil, a well-known fragrance...It is the Examiner's position that the presence of surfactants

and fragrances do not materially alter the deodorizing composition as described in the instant application.

First, it is respectfully submitted that Stanislawski does not teach or suggest adding acrylic emulsion polymers having an acid number from about 75-500 and an average molecular weight of about 500-20,000 to the odor controlling composition. Rather, Stanislawski teaches the use of (1) SAPs to wick and entrap liquid wastes (*see col. 5, lines 61-64*) and (2) dedusting compounds such as water-soluble polymeric resins (*see col. 6, lines 18-23*). Applicants submit that (1) SAPs are not water dispersible, but rather water absorbing and (2) water-soluble polymeric resins differ from water dispersible polymers because they dissolve instead of merely disperse in water. Thus, Stanislawski does not teach or suggest the use of the water dispersible acrylic emulsion polymers claimed by Applicants.

Second, it is respectfully submitted that Stanislawski actually teaches away from the position stated by the Examiner because Stanislawski discloses pine oil as a critical ingredient for effective odor control. Specifically, Stanislawski states "Applicants, on the other hand, have surprisingly found that pine oil plus boric acid (or its equivalent) act as an odor controlling system for animal litters by preventing ammonia formation, rather than merely by masking odors..." (*see col. 3, lines 27-3*); and, "Applicants further demonstrate the surprising and dramatic results which are obtained when pine oil is added as an odor controlling agent to animal litters." (*See col. 6, lines 26-28*). Applicants claim a composition consisting essentially of: an aqueous liquid deodorizing composition, about at least 0.01% to about 10% of a dialkali metal tetraborate n-hydrate wherein n is an interger from 0 to 10, 0.1-3% water dispersible acrylic emulsion polymer having an acid number from about 75-500 and an average molecular weight of about 500-20,000, 1-25% water soluble/ dispersible volatile solvent, and at least 75% water. Thus, it is respectfully submitted that Stanislawski does not teach or suggest using the combination claimed by Applicants, (i.e., a composition devoid of pine oil) to effectively mitigate or eliminate pet malodors on surfaces.

It is respectfully submitted that independent claims 6 and 11 are patentable over Stanislawski. Since claims 9, 11-13 and 15 ultimately depend on these claims, Applicants respectfully suggest that these claims are also allowable over the Stanislawski.

CONCLUSION

In conclusion, reconsideration and allowance of claims 6, 9, 11-13 and 15 is respectfully requested. In the event that the Examiner finds any remaining impediment to the prompt allowance of these claims that could be resolved by a telephone conference, the Examiner is urged to contact the undersigned.

Respectfully submitted,



Ann M. Lee
Reg. No. 47,741
Customer No. 27019
Attorney for Applicant
The Clorox Company
P.O. Box 24305
Oakland, CA 94623
Telephone: (510) 271-3136
Facsimile: (510) 271-1652

August 3, 2005

File No.: 430.134

J:\PATENT\LITTER 430\430.134\430.134 ROA 7.5.05.doc